



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 05 2016

James Terpening

Saint Johns, MI 48879

RE: MUR 6564

Dear Mr. Terpening:

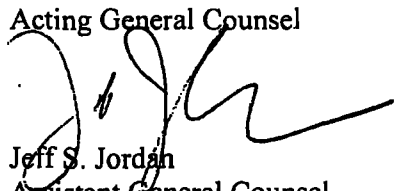
On May 3, 2012, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On April 28, 2016, based upon the information contained in the complaint, and information provided by you, the Commission decided to exercise its prosecutorial discretion to dismiss the complaint and close its file in this matter. Accordingly, the Commission closed its file in this matter on April 28, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Daniel A. Petalas
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: James Terpening

MUR 6564

I. INTRODUCTION

This matter was generated by a Complaint filed by Dr. Terry Jones ("Complainant" or "Jones") alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations by James Terpening. It was scored as a relatively low-rated matter under the Enforcement Priority System, a system by which the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue.

II. FACTUAL AND LEGAL ANALYSIS

Complainant filed a Statement of Candidacy for the Office of President on November 1, 2011, and a Statement of Organization on November 3, 2011, naming "Dr. Terry Jones 2012" (the "Committee") as his principal campaign committee. In his Complaint, Jones states that in November 2011, he hired James Terpening to build a campaign website. Compl. at 1. Jones alleges that Terpening created the website and was paid for his work, but Terpening did not transfer access to the website or the funds linked to the website to Jones.¹ *Id.* Jones also alleges that "an unknown amount of funds" was received through the website for his presidential campaign, but Terpening withheld access to the funds and the account into which internet donations were deposited. *Id.* Jones states that he is "self-reporting" this situation as a violation of federal campaign finance laws. *Id.*

¹ Jones provides no documentation confirming payment. *Id.* Jones attaches an email string, which reflects communications between Terpening and Stephanie Sapp, presumably a campaign employee, showing that Terpening was to "send information for the donation button and for the email addresses." *Id.*, Attach. 1.

1 In his Response, Terpening agrees that he was hired to build a campaign website for
2 Jones. Resp. at 1. Terpening indicates that he completed the website in late 2011, but he
3 refused to activate it until Jones paid him for his work. *Id.* After he received payment,
4 Terpening activated the website and performed further work on the website, as Jones
5 requested. *Id.* One update included the addition of a donation page. *Id.* at 2. Although
6 Terpening added this donation page, he told the campaign “not to use it because it would have
7 to be placed into their [sic] name.” *Id.* Despite this, according to Terpening, a Jones
8 supporter (apparently a campaign employee) made a \$250 donation through the website. *Id.*
9 Terpening states that he immediately shut the website down after the donation was made,
10 declined the payment, and told the supporter her funds would be credited back to her
11 account.² *Id.* Terpening noted that his bank returned the \$1,820 check he received from the
12 Jones campaign for his work on the website for insufficient funds two days after the supporter
13 made the donation on the website. *Id.*

14 Besides his initial statements of candidacy and organization, neither Jones nor his
15 Committee has filed disclosure reports with the Commission.³ Jones provided no further
16 information indicating that other contributions were received, or even attempted, via the
17 website. Press accounts do not report any significant information about Jones, his potential
18 presidential bid, or his spending. Terpening appears to state in his response that he shut down
19 the website’s contribution function just after receiving the single donation, preventing further
20 contributions from being processed through it.

² This statement may be contradicted by the email attached to the Complaint in which Terpening said the money was “just sitting in the Piryx account.” Compl., Attach. 1. The Commission has attempted, but has been unsuccessful, in contacting Terpening and clarifying whether the \$250 contribution was returned and whether any additional contributions were processed through the website.

³ On August 5, 2015, the Reports Analysis Division notified “Dr. Terry Jones 2012” and “Sylvia Jones, Treasurer” that the Committee was being administratively terminated.

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1 Any person receiving a contribution in excess of \$200 for an authorized candidate's
2 committee must, within ten days after receipt, forward that contribution to the committee's
3 treasurer, along with information identifying the contributor and the date of the contribution.
4 11 C.F.R. § 102.8(a).

5 It appears that Terpening may have been required to forward the \$250 contribution he
6 received via the website to the Committee, as opposed to returning it to the contributor.
7 However, due to the low amount apparently at issue, the Commission does not believe further
8 Commission resources are warranted to pursue this matter further. Therefore, the
9 Commission exercises its prosecutorial discretion and dismisses this matter, pursuant to
10 *Heckler v. Chaney*, 470 U.S. 821 (1985).⁴

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⁴ The record suggests that the Committee may have made a single expenditure of \$1,820, which was not disclosed on a financial disclosure report. Given the lack of available information and the low dollar amount indicated in the record, the Commission does not believe further enforcement resources are warranted in order to determine whether the Committee had an obligation to file disclosure reports with the Commission.